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ATTACHMENT D

STATE-BY-STATE PLANS FOR THE
UNANTICIPATED DISCOVERY OF HUMAN REMAINS OR BURIALS
ON NON-FEDERAL LANDS DURING CONSTRUCTION OR MODIFICATION OF
KEYSTONE PROJECT TRANSMISSION FACILITIES
ASSISTED BY
THE RURAL UTILITIES SERVICE

- I. For construction or modification of Keystone Project electrical transmission facilities in Illinois, Rural Utilities Service (RUS) and its applicants will implement the following measures:
 1. When an unmarked human burial or unregistered grave is encountered during construction activities, the RUS applicant will comply with 20 Illinois Compiled Statutes 3440/0.01, et seq. (Human Skeletal Remains Protection Act).
 2. Upon encountering an unmarked human burial or unregistered grave during ground disturbing construction activities, the construction contractor will immediately stop work within a one-hundred (100) foot radius from the point of discovery and notify the RUS applicant. The construction contractor will implement interim measures to protect the discovery from vandalism and looting, but must not remove or otherwise disturb any human remains or other items in the immediate vicinity of the discovery.
 3. Immediately following receipt of such notification, the RUS applicant will ensure that construction activities have halted within a one-hundred (100) foot radius from the point of discovery and assume responsibility for implementing additional measures, as appropriate, to protect the discovery from looting and vandalism until the requirements of state law have been completed.
 4. The RUS applicant will notify the county coroner, RUS and the Illinois State Historic Preservation Office (SHPO) within forty-eight (48) hours of the discovery. Immediately upon receipt of such notification, RUS will notify the Advisory Council on Historic Preservation (ACHP), and other consulting parties, including Indian tribes, of the discovery.
 5. Within seventy-two (72) hours after notification the county coroner will determine jurisdiction. If the coroner refers the matter to the SHPO, the SHPO will determine the treatment, including mitigation, and disposition of the unmarked human burial or unregistered grave in accordance with Title 17, Chapter VI, Section 4170. The RUS applicant will implement the treatment and disposition measures deemed appropriate by the SHPO.
 6. The RUS applicant may resume construction activities in the area of the discovery upon receipt of written authorization from either the county coroner or the Illinois SHPO, whomever has jurisdiction under state law.
- II. For construction or modification of Keystone Project electrical transmission facilities in Kansas, RUS and its applicants will implement the following measures:

Programmatic Agreement
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Keystone Pipeline Project
January 30, 2008

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1. When an unmarked human burial site or human skeletal remains is encountered during construction activities, the RUS applicant will comply with the Kansas Unmarked Burial Sites Preservation Act (KSA 75-2741 to 75-2754) and its implementing regulations (KAR 126-1-1 through 126-1-2).
2. Upon encountering unmarked human burial sites or human skeletal remains during ground disturbing construction activities, the construction contractor will immediately stop work within a one-hundred (100) foot radius from the point of discovery and notify the RUS applicant. The construction contractor will implement interim measures to protect the discovery from vandalism and looting, but must not remove or otherwise disturb any human remains or other items in the immediate vicinity of the discovery.
3. Immediately following receipt of such notification, the RUS applicant will
 - o ensure that construction activities have halted within a one-hundred (100) foot radius from the point of discovery;
 - o implement additional measures, as appropriate, to protect the discovery from looting and vandalism until the requirements of state law have been completed; and
 - o notify the appropriate county sheriff's office, the chairperson of the Unmarked Burial Sites Preservation Board (Kansas state archaeologist), RUS and the SHPO of the discovery.
4. Immediately upon receipt to the notification, RUS will notify the ACHP and other consulting parties, including Indian tribes, of the discovery.
5. If RUS determines that disturbance to the unmarked burial site or human remains cannot be avoided, RUS will consult with the applicant, the SHPO and other consulting parties to develop a detailed work plan for treatment of the burial site or human remains that includes provisions for the removal, treatment and disposition of human remains. In accordance with state law, RUS will submit this work plan to the Unmarked Burial Sites Preservation Board as part of its request for a permit under KAR 126-1-2.
6. The RUS applicant may resume construction activities in the area of the discovery once the permit requirements have been fulfilled.

III. For construction or modification of Keystone Project electrical transmission facilities in Missouri, RUS and its applicants will implement the following measures:

1. If an unmarked human burial or skeletal remains are encountered during construction activities, the RUS applicant will comply with Missouri Rev. Stat. §194.400, et seq. (Unmarked Human Burial Law).
2. Upon encountering an unmarked human burial or skeletal remains during ground disturbing construction activities, the construction contractor will immediately stop work within a one-hundred (100) foot radius from the point of discovery and notify TransCanada's Environmental Inspector. The construction contractor will implement interim measures to protect the discovery from vandalism and looting, but must not remove or otherwise disturb any human remains or other items in the immediate vicinity of the discovery.
3. Immediately following receipt of such notification, the RUS applicant will

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- ensure that construction activities have halted within a one-hundred (100) foot radius from the point of discovery;
- implement additional measures, as appropriate, to protect the discovery from looting and vandalism until the requirements of state law have been completed; and
- notify the local law enforcement officer, RUS and the SHPO of the discovery.

4. Immediately upon receipt of such notification, RUS will notify the ACHP and other consulting parties, including Indian tribes, of the discovery.
5. The investigation by a local law enforcement officer will establish jurisdiction over the remains. The RUS applicant will notify RUS and the SHPO if local law enforcement determines that the SHPO has jurisdiction. Within seven (7) days of receipt of such notification, the SHPO will determine the treatment to be implemented by the RUS applicant in accordance with Missouri Rev. Stat. § 194.400, et seq. The disposition of the human remains will be determined based on Missouri Rev. Stat. § 194.408 and § 194.409. The RUS applicant will assist the SHPO in implementing the provisions of state law.
6. The RUS applicant may resume construction activities in the area of the discovery upon receipt of written authorization from either local law enforcement or the Missouri SHPO, whomever has jurisdiction under state law.

IV. For construction or modification of Keystone Project electrical transmission facilities in Nebraska (Cushing Extension), RUS and its applicants will implement the following measures:

1. When unmarked human skeletal remains or burial goods are discovered during construction activities, the RUS applicant will comply with Nebraska Rev. Stat. § 12-1201 through § 12-1212, et seq. and § 28-1301.
2. Upon encountering unmarked human skeletal remains or burial goods during ground disturbing construction activities, the construction contractor will immediately stop work within a one-hundred (100) foot radius from the point of discovery and notify the RUS applicant. The construction contractor will implement interim measures to protect the discovery from vandalism and looting, but must not remove or otherwise disturb any human remains or other items in the immediate vicinity of the discovery.
3. Immediately following receipt of such notification, the RUS applicant will ensure that construction activities have halted within a one-hundred (100) foot radius from the point of discovery and assume responsibility for implementing additional measures, as appropriate, to protect the discovery from looting and vandalism until the requirements of state law have been completed.
4. The RUS applicant will notify the local law enforcement officer in the county, RUS and the SHPO, as soon as possible but within 48 hours of the discovery.
5. Immediately upon receipt of such notification, RUS will notify the ACHP and other consulting parties, including Indian tribes, of the discovery.

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6. If local law enforcement determines that the remains are not associated with a crime, RUS will determine if it is prudent and feasible to avoid disturbing the remains. If RUS determines that disturbance cannot be avoided, the RUS applicant will conduct the removal, treatment and disposition of the human burial or remains under the direction of the Nebraska State Historical Society.
7. The RUS applicant may resume construction activities in the area of the discovery when the human skeletal remains or burial goods have been accepted by the Nebraska State Historical Society for the purposes of disposition.

V. For construction or modification of Keystone Project electrical transmission facilities in North Dakota, RUS and its applicants will implement the following measures:

1. If an unmarked human burial or human remains is discovered during construction activities, an RUS applicant will comply with North Dakota Century Code §23-06-27 and administrative rules North Dakota Administrative Code Chapter 40-02-03.
2. Upon encountering unmarked human burials or human remains during ground disturbing construction activities, the construction contractor will immediately stop work within a one-hundred (100) foot radius from the point of discovery and notify the RUS applicant. The construction contractor will implement interim measures to protect the discovery from vandalism and looting, but must not remove or otherwise disturb any human remains or other items in the immediate vicinity of the discovery.
3. Immediately following receipt of such notification, the RUS applicant will
 - o ensure that construction activities have halted within a one-hundred (100) foot radius from the point of discovery;
 - o implement additional measures, as appropriate, to protect the discovery from looting and vandalism until the completion of requirements under state law; and
 - o notify the local law enforcement agency, RUS, the SHPO/State Historical Society of North Dakota (SHSND) and the State Department of Health of the discovery.
4. Immediately upon receipt of such notification, RUS will notify the ACHP and other consulting parties, including Indian tribes, of the discovery.
5. If local law enforcement determines that the remains are not associated with a crime, RUS will determine if it is prudent and feasible to avoid disturbing the remains. If RUS determines that disturbance cannot be avoided, its applicant will remove and reinter the human remains in accordance with rules adopted by the SHPO/SHSND and the State Health Department.
6. The RUS applicant may resume construction activities in the area of the discovery once implementation of the measures required by the SHPO/SHSND and State Health Department have been completed.

VI. For construction or modification of Keystone Project electrical transmission facilities in Oklahoma (Cushing Extension), RUS and its applicants will implement the following measures:

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1. When a burial ground, human remains or burial furniture is discovered during construction activities, the RUS applicant will comply with Okla. Stat. Ann. 21 §1161-1168.7 (Oklahoma Burial Law).
2. Upon encountering a burial ground, human remains or burial furniture during ground disturbing construction activities, the construction contractor will immediately stop work within a one-hundred (100) foot radius from the point of discovery and notify the RUS applicant. The construction contractor will implement interim measures to protect the discovery from vandalism and looting, but must not remove or otherwise disturb any human remains or other items in the immediate vicinity of the discovery.
3. Immediately following receipt of such notification, the Environmental Inspector will
 - o ensure that construction activities have halted within a one-hundred (100) foot radius from the point of discovery;
 - o implement additional measures, as appropriate, to protect the discovery from looting and vandalism until the completion of requirements under state law; and
 - o notify the appropriate law enforcement officer in the county in which the remains have been discovered, the Chief Medical Examiner, RUS, the SHPO, the Oklahoma Archaeological Survey's (OAS) State Archaeologist and the landowner, of the discovery.
4. Immediately upon receipt of such notification, RUS will notify the ACHP and other consulting parties, including Indian tribes, of the discovery.
5. RUS will notify the SHPO and the OAS State Archaeologist of the law enforcement officer's determination that the remains are not associated with a crime within fifteen (15) days. If RUS determines that disturbance cannot be avoided, its applicant will treat the burial site or human remains in accordance with procedures established by the SHPO and OAS State Archaeologist.
6. The RUS applicant may resume construction activities in the area of the discovery upon completion of the measures authorized by the SHPO and OAS State archaeologist.

VII. For construction or modification of Keystone Project electrical transmission facilities in South Dakota, RUS and its applicants will implement the following measures:

1. When an unmarked human burial or human remains is discovered during construction activities, the RUS applicant will comply with South Dakota State Law Chapter 34-27.
2. Upon encountering an unmarked human burial or human remains during ground disturbing construction activities, the construction contractor will immediately stop work within a one-hundred (100) foot radius from the point of discovery and notify the RUS applicant. The construction contractor will implement interim measures to protect the discovery from vandalism and looting, but must not remove or otherwise disturb any human remains or other items in the immediate vicinity of the discovery.
3. Immediately following receipt of such notification, the RUS applicant will ensure that construction activities have halted within a one-hundred (100) foot radius from the point of discovery and assume responsibility for implementing additional measures, as appropriate, to protect the discovery from looting and vandalism until the requirements of state law have been completed.

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4. The RUS applicant will notify the local law enforcement agency, RUS, the SHPO, and the South Dakota State Archaeologist as soon as possible, but within forty-eight (48) hours of the discovery.
5. Immediately upon receipt of such notification RUS will notify the ACHP and other consulting parties, including Indian tribes, of the discovery.
6. If local law enforcement determines that the remains are not associated with a crime, RUS will determine if it is prudent and feasible to avoid disturbing the remains. If RUS determines that disturbance cannot be avoided, the agency will consult with its applicant, the South Dakota State Archaeologist and other consulting parties, including Indian tribes, as appropriate, to determine acceptable procedures for the removal, treatment and disposition of the burial or remains. The RUS applicant will implement the plan for removal, treatment and disposition of the burial or remains as authorized by the South Dakota State Archaeologist.
7. The RUS applicant may resume construction activities in the area of the discovery upon completion of the plan authorized by the South Dakota State Archaeologist.

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C. CONSULTING TRIBES

Blackfeet
Cherokee Nation
Cheyenne-Arapaho
Chippewa-Cree
Delaware Nation
Flandreau Santee Sioux
Forest County Potawatomi
Fort Peck
Fort Sill Apache
Ho-Chunk of Wisconsin
Iowa Tribe of KS and NE
Iowa Tribe of OK
Kaw Nation
Kickapoo of OK
Lower Sioux
MHA Nation
Miami Tribe of OK
Mille Lacs Band of Ojibwe
Muscogee Creek
Northern Arapaho
Oglala Sioux
Osage Tribe
Pawnee Nation
Pokagon Band of Potawatomi
Ponca of OK
Ponca Tribe of NE
Rosebud Sioux
Sac and Fox of NE and KS
Sac and Fox of OK
Santee Sioux of NE
Sisseton-Wahpeton Oyate
Sisseton-Wahpeton Oyate Wahpekute
Spirit Lake Nation
Standing Rock Sioux
Tonkawa Tribe
United Keetoowah Band of Cherokee
Yankton Sioux